

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1223**

Introduced by Wehrbein, 2

Read first time January 12, 2000

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Beginning Farmer Tax Credit Act; to  
2 amend section 77-2734.03, Revised Statutes Supplement,  
3 1998, and sections 77-5203 to 77-5205 and 77-5209 to  
4 77-5211, Revised Statutes Supplement, 1999; to change  
5 provisions relating to qualification for tax credits,  
6 reports, and board members; to harmonize provisions; and  
7 to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1                   Section 1.           Section 77-2734.03, Revised Statutes  
2 Supplement, 1998, is amended to read:

3                   77-2734.03. (1)(a) For taxable years commencing prior to  
4 January 1, 1997, any (i) insurer paying a tax on premiums and  
5 assessments pursuant to section 77-908 or 81-523, (ii) electric  
6 cooperative organized under the Joint Public Power Authority Act,  
7 or (iii) credit union shall be credited, in the computation of the  
8 tax due under the Nebraska Revenue Act of 1967, with the amount  
9 paid during the taxable year as taxes on such premiums and  
10 assessments and taxes in lieu of intangible tax.

11                   (b) For taxable years commencing on or after January 1,  
12 1997, any insurer paying a tax on premiums and assessments pursuant  
13 to section 77-908 or 81-523, any electric cooperative organized  
14 under the Joint Public Power Authority Act, or any credit union  
15 shall be credited, in the computation of the tax due under the  
16 Nebraska Revenue Act of 1967, with the amount paid during the  
17 taxable year as (i) taxes on such premiums and assessments included  
18 as Nebraska premiums and assessments under section 77-2734.05 and  
19 (ii) taxes in lieu of intangible tax.

20                   (c) For taxable years commencing or deemed to commence  
21 prior to, on, or after January 1, 1998, any insurer paying a tax on  
22 premiums and assessments pursuant to section 77-908 or 81-523 shall  
23 be credited, in the computation of the tax due under the Nebraska  
24 Revenue Act of 1967, with the amount paid during the taxable year  
25 as assessments allowed as an offset against premium and related  
26 retaliatory tax liability pursuant to section 44-4233.

27                   (2) There shall be allowed to corporate taxpayers a  
28 credit for nonhighway use motor vehicle fuels as provided in

1 section 66-4,124.

2 (3) There shall be allowed to corporate taxpayers a tax  
3 credit for contributions to community betterment programs as  
4 provided in the Community Development Assistance Act.

5 (4) There shall be allowed to corporate taxpayers a  
6 refundable income tax credit under the Beginning Farmer Tax Credit  
7 Act for all taxable years beginning or deemed to begin on or after  
8 January 1, 2001, under the Internal Revenue Code of 1986, as  
9 amended.

10 Sec. 2. Section 77-5203, Revised Statutes Supplement,  
11 1999, is amended to read:

12 77-5203. For purposes of the Beginning Farmer Tax Credit  
13 Act:

14 (1) Agricultural assets means agricultural land,  
15 livestock, farming, or livestock production facilities or buildings  
16 and machinery used for farming or livestock production;

17 (2) Board means the Beginning Farmer Board created by  
18 section 77-5204;

19 (3) Farm means any tract of land over ten acres in area  
20 used for or devoted to the commercial production of farm products;

21 (4) Farm product means those plants and animals useful to  
22 man and includes, but is not limited to, forages and sod crops,  
23 grains and feed crops, dairy and dairy products, poultry and  
24 poultry products, livestock, including breeding and grazing  
25 livestock, fruits, and vegetables;

26 (5) Farming or livestock production means the active use,  
27 management, and operation of real and personal property for the  
28 production of a farm product;

1           (6) Financial management program means a program for  
2 beginning farmers or livestock producers which includes, but is not  
3 limited to, assistance in the creation and proper use of  
4 record-keeping systems, periodic private consultations with  
5 licensed financial management personnel, year-end monthly cash flow  
6 analysis, and detailed enterprise analysis;

7           (7) Owner of agricultural assets means (a) an individual  
8 who is a resident individual as defined in section 77-2714.01, who  
9 has derived at least fifty percent or more of his or her gross  
10 annual income for income tax purposes from farming or livestock  
11 production, ~~who has a net worth of at least one hundred thousand~~  
12 ~~dollars, including any holdings by a spouse or dependent, based on~~  
13 ~~fair market value,~~ who has provided the majority of the day-to-day  
14 physical labor and management of a farm over a period of time  
15 deemed sufficient to qualify for the granting of tax credits under  
16 the act by the board, and who has such other qualifications as  
17 determined by the board or (b) a family farm or ranch corporation  
18 as defined by Article XII, section 8, of the Constitution of  
19 Nebraska; and

20           (8) Qualified beginning farmer or livestock producer  
21 means an individual who is a resident individual as defined in  
22 section 77-2714.01, who has entered farming or livestock production  
23 or is seeking entry into farming or livestock production, who  
24 intends to farm or raise crops or livestock on land located within  
25 the state borders of Nebraska, and who meets the eligibility  
26 guidelines established in section 77-5209 and such other  
27 qualifications as determined by the board.

28           Sec. 3.     Section 77-5204, Revised Statutes Supplement,

1 1999, is amended to read:

2 77-5204. For the purpose of developing and directing  
3 programs to provide increased and enhanced opportunities for  
4 beginning farmers and livestock producers, the Beginning Farmer  
5 Board is created. For administrative and budgetary purposes only,  
6 the board shall be housed within the Department of Agriculture.  
7 The board shall be vested with the following duties and  
8 responsibilities:

9 (1) To approve and certify beginning farmers and  
10 livestock producers as eligible for the programs provided by the  
11 board;

12 (2) To approve and certify owners of agricultural assets  
13 as eligible for the tax credits authorized by sections 77-5211 to  
14 77-5213;

15 (3) To advocate joint ventures between beginning farmers  
16 or livestock producers and existing private and public credit and  
17 banking licensed institutions, as well as to advocate joint  
18 ventures with owners of agricultural assets desiring to assist  
19 beginning farmers and livestock producers seeking entry into  
20 farming or livestock production;

21 (4) To provide necessary and reasonable assistance and  
22 support to beginning farmers and livestock producers for  
23 qualification and participation in financial management programs  
24 approved by the board;

25 (5) To advocate appropriate changes in policies and  
26 programs of other public and private institutions or agencies which  
27 will directly benefit beginning farmers and livestock producers and  
28 may include changes regarding financing, taxation, and any other

1 existing policies which prohibit or impede individuals from  
2 entering into farming or livestock production;

3 (6) To provide adequate explanations of facts and aspects  
4 of available programs offered or recommended by the board intended  
5 for beginning farmers and livestock producers;

6 (7) To assist and educate beginning farmers and livestock  
7 producers by acting as a liaison between beginning farmers or  
8 livestock producers and the Nebraska Investment Finance Authority;

9 (8) To encourage licensed financial institutions and  
10 individuals to use alternative amortization schedules for loans and  
11 land contracts granted to beginning farmers and livestock  
12 producers;

13 (9) To refer beginning farmers and livestock producers to  
14 agencies and organizations which may provide additional pertinent  
15 information and assistance;

16 (10) To provide any other assistance and support the  
17 board deems necessary and appropriate in order for entry into  
18 farming or livestock production;

19 (11) To adopt and promulgate rules and regulations  
20 necessary to carry out the purposes of the Beginning Farmer Tax  
21 Credit Act, including criteria required for tax credit eligibility  
22 and financial management program certification and guidelines which  
23 constitute a viably sized farm that is necessary to adequately  
24 support a beginning farmer or livestock producer. Such guidelines  
25 shall vary and take into account the region of the state, number of  
26 acres, land quality and type, type of operation, type of crops or  
27 livestock raised, and other factors of farming or livestock  
28 production; and

1           (12) To keep minutes of the board's meetings and other  
2 books and records which will adequately reflect actions and  
3 decisions of the board and to provide an annual report to the  
4 Legislature and Governor, the Legislative Fiscal Analyst, and the  
5 Clerk of the Legislature by December 1.

6           Sec. 4. Section 77-5205, Revised Statutes Supplement,  
7 1999, is amended to read:

8           77-5205. The board shall consist of the following  
9 members:

10           (1) The Director of Agriculture or his or her designee;

11           (2) The Tax Commissioner or his or her designee;

12           (3) One individual representing lenders of agricultural  
13 credit;

14           (4) One individual of the academic community with  
15 extensive knowledge and insight in the analysis of agricultural  
16 economic issues; and

17           (5) Three individuals, one from each congressional  
18 district, who are currently engaged in farming or livestock  
19 production and are representative of a variety of farming or  
20 livestock production interests based on size of farm, type of farm  
21 operation, net worth of farm operation, and geographic location.

22           All members of the board shall be resident individuals as  
23 defined in section 77-2714.01. Members of the board listed in  
24 subdivisions (3) through (5) of this section shall be appointed by  
25 the Governor with the approval of a majority of the Legislature.  
26 All appointments shall be for terms of four years.

27           Vacancies in the appointed membership of the board shall  
28 be filled for the unexpired term by appointment by the Governor.

1 Members of the board shall serve the full term and until a  
2 successor has been appointed by the Governor and approved by the  
3 Legislature. Any member is eligible for reappointment. Any member  
4 may be removed from the board by the Governor or by an affirmative  
5 vote by any four members of the board for incompetence, neglect of  
6 duty, or malfeasance. Members of the board shall not be liable for  
7 damages to any person for slander, libel, defamation of character,  
8 breach of any privileged communication, or otherwise for any action  
9 taken or recommendation made within the scope of the functions of  
10 the board if the member acts without malice and in the reasonable  
11 belief that such action or recommendation is warranted by the facts  
12 known to him or her after a reasonable effort is made to obtain the  
13 facts on which such action is taken or recommendation is made.

14 Sec. 5. Section 77-5209, Revised Statutes Supplement,  
15 1999, is amended to read:

16 77-5209. The board shall determine who is qualified as a  
17 beginning farmer or livestock producer based on the qualifications  
18 found in this section. A qualified beginning farmer or livestock  
19 producer shall be an individual who: (1) ~~Has a net worth of not~~  
20 ~~more than one hundred thousand dollars, including any holdings by a~~  
21 ~~spouse or dependent, based on fair market value, (2) provides~~  
22 Provides the majority of the day-to-day physical labor and  
23 management of the farm; ~~(3) (2)~~ has, by the judgment of the board,  
24 adequate farming or livestock production experience or demonstrates  
25 knowledge in the type of farming or livestock production for which  
26 he or she seeks assistance from the board; ~~(4) (3)~~ demonstrates to  
27 the board a profit potential by submitting board-approved projected  
28 earnings statements and agrees that farming or livestock production

1 is intended to become his or her principal source of income; ~~(5)~~  
2 (4) demonstrates to the board a need for assistance; ~~(6)~~ (5)  
3 participates in a financial management program approved by the  
4 board; ~~(7)~~ (6) submits a nutrient management plan and a soil  
5 conservation plan to the board for approval on any applicable  
6 agricultural assets purchased or rented from an owner of  
7 agricultural assets; ~~(8)~~ (7) is not a relative as defined in  
8 section 36-702 of the owner of agricultural assets in which the  
9 beginning farmer or livestock producer is seeking to enter into a  
10 share-rental agreement; and ~~(9)~~ (8) has such other qualifications  
11 as specified by the board. A qualified beginning farmer or  
12 livestock producer who has participated in a board approved and  
13 certified three-year share-rental agreement with an owner of  
14 agricultural assets shall not be eligible to file a subsequent  
15 application with the board but may refer to the board for  
16 additional support and participate in programs, including  
17 educational and financial programs and seminars, established or  
18 recommended by the board that are applicable to the continued  
19 success of such farmer or livestock producer.

20 Sec. 6. Section 77-5210, Revised Statutes Supplement,  
21 1999, is amended to read:

22 77-5210. The board shall, ~~following the close of each~~  
23 ~~fiscal year,~~ submit an annual report of the activities and actions  
24 of the board for the preceding fiscal year to the Governor, the  
25 Legislative Fiscal Analyst, and the Clerk of the Legislature by  
26 December 1. Each member of the Legislature shall receive a copy of  
27 such report by request to the chairperson of the board. Each  
28 report shall include the following information:

1           (1) A complete operating and financial statement for the  
2 board for the prior fiscal year;

3           (2) The number of qualified beginning farmers and  
4 livestock producers receiving assistance from the board;

5           (3) The number of owners of agricultural assets claiming  
6 tax credits and the monetary amount of credits granted by the  
7 board; and

8           (4) Any other relevant information which the board deems  
9 necessary to report.

10           No information furnished to the board shall be disclosed  
11 in the report in such a way as to reveal the private or  
12 confidential information regarding any person.

13           Sec. 7. Section 77-5211, Revised Statutes Supplement,  
14 1999, is amended to read:

15           77-5211. Beginning January 1, 2001, an owner of  
16 agricultural assets shall be allowed a credit to be applied against  
17 the state income tax liability of such ~~individual~~ owner for  
18 agricultural assets rented on a share-rental agreement basis,  
19 including cash rent of agricultural assets or cash equivalent of a  
20 share-crop rental, to qualified beginning farmers or livestock  
21 producers. Such asset shall be rented at prevailing community  
22 rates as determined by the board. The credit allowed shall be for  
23 renting agricultural assets used for farming or livestock  
24 production. Such credit shall be granted by the Department of  
25 Revenue only after approval and certification by the board and a  
26 written three-year share-rental agreement for such assets is  
27 entered into between an owner of agricultural assets and a  
28 qualified beginning farmer or livestock producer. An owner of

1 agricultural assets or qualified beginning farmer or livestock  
2 producer may terminate such agreement for reasonable cause upon  
3 approval by the board. If an agreement is terminated without fault  
4 on the part of the owner of agricultural assets as determined by  
5 the board, the tax credit shall not be retroactively disallowed.  
6 If an agreement is terminated with fault on the part of the owner  
7 of agricultural assets as determined by the board, any prior tax  
8 credits claimed by such owner shall be disallowed and recaptured  
9 and shall be immediately due and payable to the State of Nebraska.  
10 A credit may be granted to an owner of agricultural assets for  
11 renting agricultural assets, including cash rent of agricultural  
12 assets or cash equivalent of a share-crop rental, to any qualified  
13 beginning farmer or livestock producer for a period of three years.  
14 An owner of agricultural assets shall not be eligible for further  
15 credits under the Beginning Farmer Tax Credit Act unless the  
16 share-rental agreement is terminated prior to the end of the  
17 three-year period through no fault of the owner of agricultural  
18 assets. If the board finds that such a termination was not the  
19 fault of the owner of agricultural assets, it may approve the owner  
20 for credits arising from a subsequent qualifying share-rental  
21 agreement with a different qualified beginning farmer or livestock  
22 producer.

23           Sec. 8. Original section 77-2734.03, Revised Statutes  
24 Supplement, 1998, and sections 77-5203 to 77-5205 and 77-5209 to  
25 77-5211, Revised Statutes Supplement, 1999, are repealed.